IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

Crl.Rev.Pet.No. 3290 of 2003(B)

CRA.620/2001 of SESSIONS COURT, KOZHIKOE
SC.133/2000 of PRL.ASSISTANT SESSIONS COURT, KOZHIKODE

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REVN. PETITIONER: APPELLANT/ACCUSED:

RAVEENDRAN, S/O. KUNHIRAMAN NAMBIAR,
THAZHEKALATHIL, CHEVAYOOR, KOZHIKODE.

BY ADV. SRI.P.NARAYANAN

RESPONDENTS: RESPONDENT/COMPLAINANTS:

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTORMR. PUZHAKKARA MUHAMMED

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 29/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P.NO.3290 OF 2003

DATED THIS THE 29TH DAY OF MAY 2007

ORDER

The revision petitioner/accused stands convicted for the offence under Section 55(a) of the Abkari Act and sentenced to undergo simple imprisonment for two years and to pay a fine of Rs.1,00,000/-(Rupees one lakh) and in default to undergo simple imprisonment for six months. The prosecution case is that on 6-11-1998 at about 5.45 p.m., the accused was found in possession of 1.3 litres of illicit arrack. The evidence adduced in the matter consisted of the testimony of Pws.1 to 5, Exts.P1 to P7 and MO.1. The defence has produced Ext.D1 sketch prepared by the Village Officer, Koodaranhi. The accused was apprehended by the Excise party that was patrolling in the area. PW1, the preventive officer, who detected the crime and PW2, the Excise Guard, have testified with respect to the apprehension of the accused and recovery of the contraband. Pws.3 and 5, independent witnesses, did not support the prosecution. The evidence of Pws.1 and 2 is not vitiated by any

pronounced infirmities and hence the reliance placed by the courts below on the above evidence cannot be found fault with. On a chemical examination of the sample seized, the same was found to contain vide Ext.P7 analysis report, ethyl alcohol to the extent of 35.47% by volume. In the circumstances, I find no reason to interfere in the conviction of the accused.

Counsel for the revision petitioner pleaded for leniency pointing out that the accused is undergoing imprisonment for more than one year. It is also pointed out that the quantity seized is only 1.3 litres. In the circumstances, the sentence is liable to be modified. Hence, the sentence is modified to simple imprisonment for one year. Rest of the sentence is confirmed. The Crl.revision petition is disposed of accordingly.

Communicate the order to the prison authorities.

K.R.UDAYABHANU, JUDGE

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